

SUMMONS ISSUED

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y.

★ NOV 22 2011 ★

CTA DIGITAL INC.

BROOKLYN OFFICE

Plaintiff,

COMPLAINT

v.

CV 11 - 5729

SAKAR INTERNATIONAL, INC.
And JOHN DOES 2-30

Defendants.

BLOCK, J.
AZRACK, M.J.

COMPLAINT

Plaintiff, CTA DIGITAL INC., a New York corporation ("CTA" or "Plaintiff") hereby sues Defendants SAKAR INTERNATIONAL, INC. ("Sakar" or "Defendant") and John Does 2-30 (Sakar and John Does 2-30 jointly and severally known as "Defendants") and alleges as follows:

THE PARTIES

1. Plaintiff, CTA is a corporation having a principal place of business at 49 South Second Street, Brooklyn, New York 11211.
2. Upon information and belief, Defendant, Sakar is a corporation having a principal place of business at 195 Carter Drive, Edison, New Jersey 08817.
3. Upon information and belief, Sakar is engaged in the business of manufacturing and selling consumer electronics and conducts business throughout the United States, the State of New York, and the County of New York and through the

internet at www.sakar.com (Exhibit 1 of the Complaint).

4. Upon information and belief, Defendants JOHN DOES 2-30 are individuals, corporations, associations, or other entities that, upon information and belief, caused, participated in, or are otherwise liable for, the infringement of CTA's patent and copyright complained of herein, including but not limited to manufacturers, distributors, retail sellers, property owners, and/or individuals and entities that own and control these entities. CTA expects to amend the complaint to allege these JOHN DOES 2-30 and their capacities.

JURISDICTION AND VENUE

5. This action is a civil action arising under the patent and copyright laws of the United States.

6. The jurisdiction of this Court arises under 28 U.S.C. §§ 1331 (federal question) and §§ 1338(a) and (b) (patent and copyright action).

7. This Court has personal jurisdiction over Defendants because Defendants have established minimum contacts with the forum. Upon information and belief, Sakar manufactures (directly or indirectly through third party manufacturers) and/or assembles products that are and have been used, offered for sale, sold and purchased in New York which violates Plaintiff's patent and copyright rights. Sakar, directly or through its distribution network, places its products within the stream of commerce, which stream is directed at this district, with the knowledge and/or understanding that such products which violate Plaintiff's patent and copyright rights will be sold in the State of New York. In addition, Defendants regularly do or solicit business or engages in other

persistent course of conduct or derive substantial revenue from goods used or consumer or services rendered in the State of New York that violate Plaintiff's patent and copyright rights or reasonably expect or should have expected the act of violating Plaintiff's patent and copyright rights to have consequences in New York, and Defendants have derived substantial revenue from interstate commerce.

8. Venue is proper in this district under 28 U.S.C. §§ 1391 (b), (c), and/or (d) and 28 U.S.C. §§ 1400(a) and/or (b), for the reasons, *inter alia*, that Defendants do business in this district and have committed acts of infringement in this district.

9. On information and belief, Defendants' activities constitute purposeful activities in New York in relation to the cause of action alleged.

UNITED STATES PATENT NO. 8,042,811

10. On or about October 11, 2011, U.S. Patent No. 8,042,811 entitled INFLATABLE VEHICLES FOR SIMULATING DRIVING FOR USE WITH VIDEO GAMES ("the '811 Patent") was duly and legally issued in the name of inventors, Lipa Markowitz and Tang Chun Kit. At the time of issuance, the '811 Patent was assigned to Plaintiff.

11. Plaintiff is the owner of the entire right, title, and interest in and to the '811 Patent by virtue of its assignment from the above-referenced inventors.

12. Plaintiff has the right to sue and recover for any and all infringements of the '811 Patent.

UNITED STATES COPYRIGHT REGISTRATION TX 7,288,366

13. Plaintiff is the owner of U.S. Copyright Registration TX 7,288,366 issued with an effective date of registration of July 21, 2010 by the United States Copyright Office for the work titled "sell sheet" (hereinafter "the Copyrighted Work"). The Copyrighted Work contains material wholly original to Plaintiff and constitutes copyrightable subject matter according to the laws of the United States. A true copy of the above-referenced Certificate of Registration, with a copy of the deposit material, is attached hereto as Exhibit 2 (hereinafter "Copyright Registration").

14. Plaintiff has the right to sue and recover for any and all infringements of the above-referenced copyright registration.

DEFENDANTS' ACT OF INFRINGEMENT

15. Upon information and belief, Defendants began in or on about 2011 to sell and continue to sell inflatable cars that infringe the '811 Patent throughout the United States and in this jurisdiction (hereinafter "Infringing Product"). Attached hereto as Exhibit 3 is an example of Defendants' Infringing Product.

16. Upon information and belief, Defendants began in or on about 2011 to sell the Infringing Product in packaging that contains infringing copies of the Copyrighted Work or portions of the Copyrighted Work throughout the United States and in this jurisdiction (hereinafter, the "Infringing Product Packaging"). Attached hereto as Exhibit 4 is a photograph of the Infringing Product Packaging and as Exhibit 5 the above-referenced Copyrighted Work that is on the Infringing Product Packaging.

17. On or about November 2, 2011, Plaintiff, by its attorneys, sent a letter to

Defendants, *inter alia*, informing Defendants of Plaintiff's rights with respect to the '811 Patent and Copyrighted Work and Registration and demanding that Defendants terminate their infringing activities.

18. On or about November 14, Plaintiff, by its attorneys, sent another letter to Sakar regarding the above-referenced letter and providing Defendants an opportunity to address this matter.

19. Despite due notice to Defendants of Plaintiff's rights, upon information and belief, Defendants continue to infringe the rights of Plaintiff, and such infringement is willful.

FIRST CLAIM FOR RELIEF

INFRINGEMENT OF U.S. PATENT NO. 8,042,811

20. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 22 of this Complaint, as if again set forth at length.

21. Upon information and belief, Defendants have been making, using, and/or selling without license or authority from Plaintiff, in this district and elsewhere in the United States, products that embody the invention claimed in the '811 Patent and is now infringing the '811 Patent under 35 U.S.C. 271(a).

22. Upon information and belief, Defendants have been manufacturing, offering for sale and selling goods that embody the invention claimed in the '811 Patent.

23. Upon information and belief, Defendants have and will continue to induce others, including but not limited to customers, to infringe the '811 Patent.

24. Plaintiff provided notice of its patent rights as set forth in the '811 Patent in full compliance with the provisions of 35 U.S.C. 287(a). Upon information and belief,

Defendants will continue to infringe and induce infringement of the '811 Patent unless enjoined by this court.

25. Plaintiff has been damaged by the acts of infringement of the '811 Patent committed by Defendants and will continue to be damaged by that infringement, unless the infringement by Defendants is enjoined by this court.

26. Upon information and belief, Defendants has had actual knowledge of the specification and issued claims of the '811 Patent, and its continuing infringement of the '811 Patent is willful and deliberate.

SECOND CLAIM FOR RELIEF

INFRINGEMENT OF COPYRIGHT REGISTRATION NO. 7,288,366

27. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 29 of this Complaint, as if again set forth at length.

28. The Copyrighted Work contains material wholly original to Plaintiff and constitutes copyrightable subject matter according to the laws of the United States.

29. Upon information and belief, since on or about a date unknown in 2011, Defendants have infringed Plaintiff's rights to the Copyright Registration in the Copyrighted Work by selling the Infringing Product in its infringing product packaging and/or placing upon the market in this district and elsewhere infringing product packaging which contains materials that were copied from the Copyrighted Work and which are substantially similar to the Copyrighted Work or portions of the Copyrighted Work.

30. On information and belief, Defendants have and continues to place the

Infringing Product Packaging as part of its sales of the Infringing Product in the public, and such acts constitute infringement of the Copyright Registration.

31. By reason of the foregoing, Plaintiff has been injured in an amount not yet ascertained.

32. Unless enjoined by this Court, as requested below, Defendants will continue their infringing acts of infringement, and Plaintiff will suffer irreparable injury and has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

(1) for Judgment that Defendants, their officers, agents, servants, employees, representatives, attorneys and all persons acting in active concert or participation with it, be found to have infringed U.S. Patent No. 8,042,811 and U.S. Copyright Registration TX 7,288,366;

(2) For an Order enjoining Defendants, their officers, agents, servants, employees, representatives, attorneys and all persons acting in active concert or participation with it from making, using, selling, or offering for sale products, services and/or product packaging which infringe U.S. Patent No. 8,042,811 and/or U.S. Copyright Registration TX 7,288,366;

(3) For an Order enjoining and restraining Defendants, their officers, agents, servants, employees, representatives, attorneys and all persons acting in active concert or participation with it from inducing infringement of U.S. Patent No. 7,664,242 and/or U.S. Copyright Registration TX 7,288,366;

(4) That Plaintiff be compensated for the damages caused by Defendants' infringement under 35 U.S.C. §284, in an amount to be precisely determined by an accounting, but not less than a reasonable royalty plus interest;

- a. That the award of damages for this exceptional case be trebled as provided by 35 U.S.C. §284;
- b. That Plaintiff be awarded its costs and attorneys fees incurred in prosecuting this action, including reasonably attorney's fees, as provided for by 35 U.S.C. §285, (plus interest); and
- c. Such other and further relief as the court deems just and equitable.

(5) That Plaintiff be awarded damages in the amount of all profits of Defendants resulting from the infringement of U.S. Copyright Registration TX 7,288,366, and/or from Defendants's unjust enrichment as set forth herein or in the alternative at Plaintiff's election, awarding statutory damages, provided by 17 U.S.C. §504(c) in an amount to be set by the Court, among other relief;

- a. That Plaintiff be awarded its costs and attorneys fees incurred in prosecuting this action, including reasonable attorney's fees, as provided for by 17 U.S.C. §505, (plus interest); and
- b. Such other and further relief as the court deems just and equitable

(6) Ordering Defendants to turn over to the Court or to Plaintiff or to destroy within ten (10) days from the entry of any Final Judgment or Preliminary Decree entered in this action, all property owned by Defendants which unlawfully violates U.S. Patent No. 7,664,242 and/or U.S. Copyright Registration TX 7,288,366, all molds and models owned by Defendants used to create said Infringing Product and/or Infringing Product

Packaging, any infringing product literature owned by Defendants, and all other works owned by Defendants that infringe U.S. Patent No. 7,664,242 and/or U.S. Copyright Registration TX 7,288,366, including an award of costs incurred by Plaintiff for the destruction of said articles and product packaging.

JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

Dated: November 21, 2011

LEVISOHN BERGER LLP

By: 

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jberger@llbl.com

Attorneys for Plaintiff
CTA Digital Inc.

Exhibit 1



Browse By

Licenses

Categories

AA & AAA Battery Chargers
Apple iPod Accessories
Binoculars
Camera Accessory Kits
Camera Adapter Rings & Tubes
Camera Bags & Cases
Camera Batteries & Chargers
Camera Filters
Camera Flashes
Camera Lenses
Card Readers
Computer Cables
Computers
Digital Cameras & Web Cams
Digital Music (MP3) Players
Digital Photo Frames
Digital Video / Camcorders
DVD Accessories
Emergency Gear
Flat Panel TV Accessories
GPS Accessories
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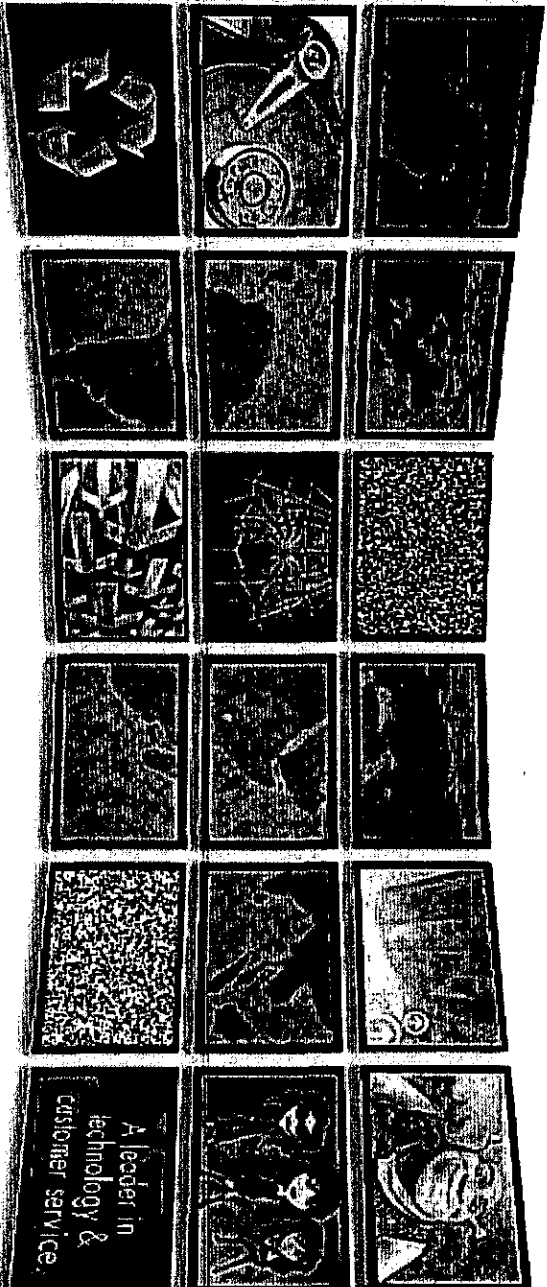
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International Operations Analyst

Consumer electronics manufacturing company in NJ seeks international operations analyst to handle U.S. and overseas operations and various accounts. Use ERP system to analyze and coordinate company operation activities, performance data ...

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New & Noteworthy

3 in 1 sports kit for wii

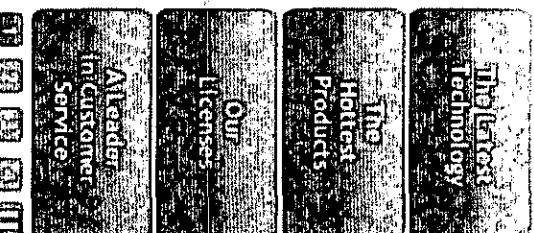


Includes tennis racket baseball bat & golf club removable remote holder compatible with wii motionplus(tm)

[More Info >>](#)

Leap Frog Camera 2.1 MP

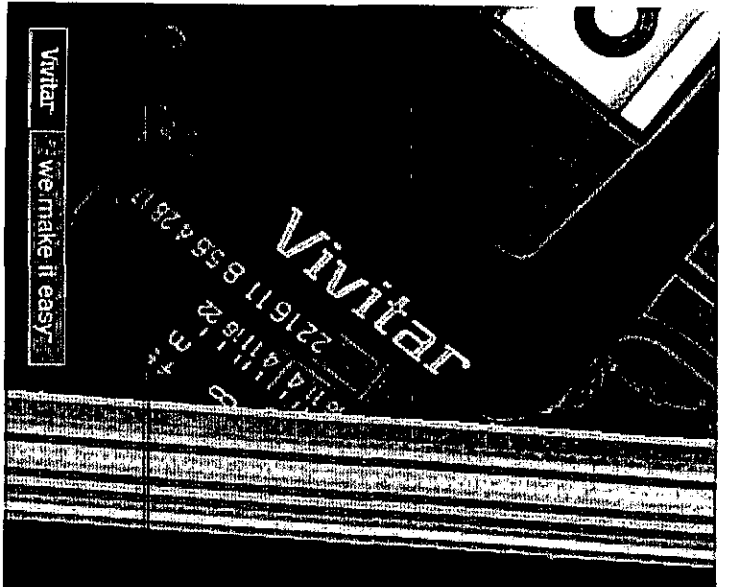
Leap Frog digital camera for Kids!



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New Crayola Kids' Cameras & Scrapbooking Kit 'Snapped' by Sakar

3/1/2010

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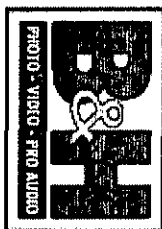
- AA & AAA Battery Chargers
- Apple iPod Accessories
- Accessories
- Binoculars
- Camera Accessory Kits
- Camera Adapter Rings & Tubes
- Camera Bags & Cases
- Camera Batteries & Chargers
- Camera Filters
- Camera Flashes
- Camera Lenses
- Card Readers
- Computer Cables
- Computers
- Digital Cameras & Web Cams
- Digital Music (MP3) Players
- Digital Photo Frames
- Digital Video / Camcorders
- DVD Accessories
- Emergency Gear
- Flat Panel TV Accessories
- GPS Accessories
- Handheld Games
- Housewares

Brands

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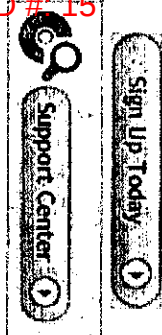
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Copyright © 2011 Sakar, Inc.

Exhibit 2



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Acting Register of Copyrights, United States of America

Registration Number
TX 7-288-366

Effective date of
registration:
July 21, 2010

Title _____

Title of Work: sell sheet

Completion/Publication _____

Year of Completion: 2010

Date of 1st Publication: January 7, 2010

Nation of 1st Publication: United States

Author _____

■ Author: CTA Digital, Inc.

Author Created: text, photograph(s)

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant _____

Copyright Claimant: CTA Digital, Inc.

49 South Second St., Brooklyn, NY, 11211, United States

Certification _____

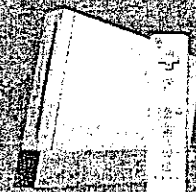
Name: Tuvia Rotberg

Date: July 21, 2010

Applicant's Tracking Number: 1792

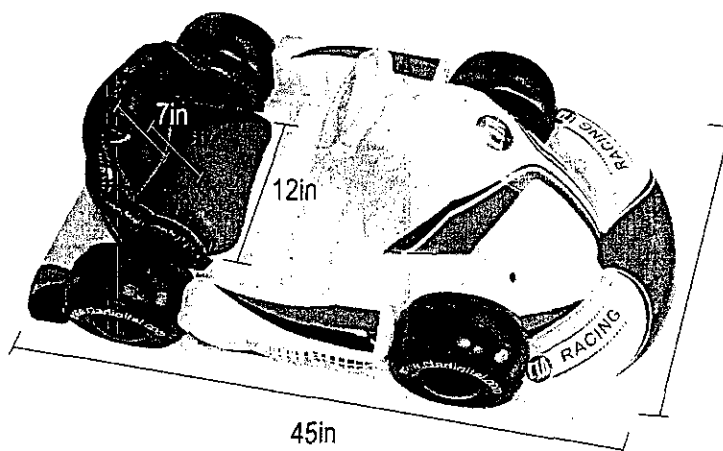
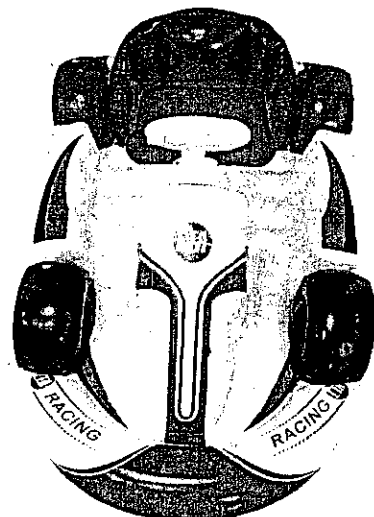


INFLATABLE CAR



Wi-CAR

for Wii



Car measures 45 inches by 28 inches.

Whether drifting around corners, road racing or just speeding through your favorite racing game, you can now maneuver your way through obstacles with precision with the inflatable F-1 Sports Kart from CTA Digital. This inflatable car is designed in the style of a sports car to give you the feeling of being behind the wheel. Connected to the inflatable car dashboard is a hard plastic steering wheel that holds your Wii Remote by simply placing the remote in the middle of the wheel (with or without MotionPlus connected). This soft and comfortable seat is easy to setup, just pullout and pop open the air valves around the car and inflate with the included plastic foot pump. So hop in your kart and go!

Features include:

- Soft and comfortable seat
- WiiMotionPlus Compatible
- Supports up to 220 lbs.
- Steering wheel houses Wii remote
- Includes foot pump for easy inflation
- Essential for Mario Kart for Wii

Compatible with the following Wii racing games:

- Mario Kart Wii
- Sonic & Sega All-Stars Racing
- F1 2009
- Dirt 2
- MySims Racing
- Exite Truck
- GT Pro Series
- Need for Speed: Carbon
- Need for Speed: Nitro
- Need for Speed: Pro Street
- Need for Speed: Undercover
- Donkey Kong: Barrel Blast
- ExciteBots: Trick Racing
- Cruis'n



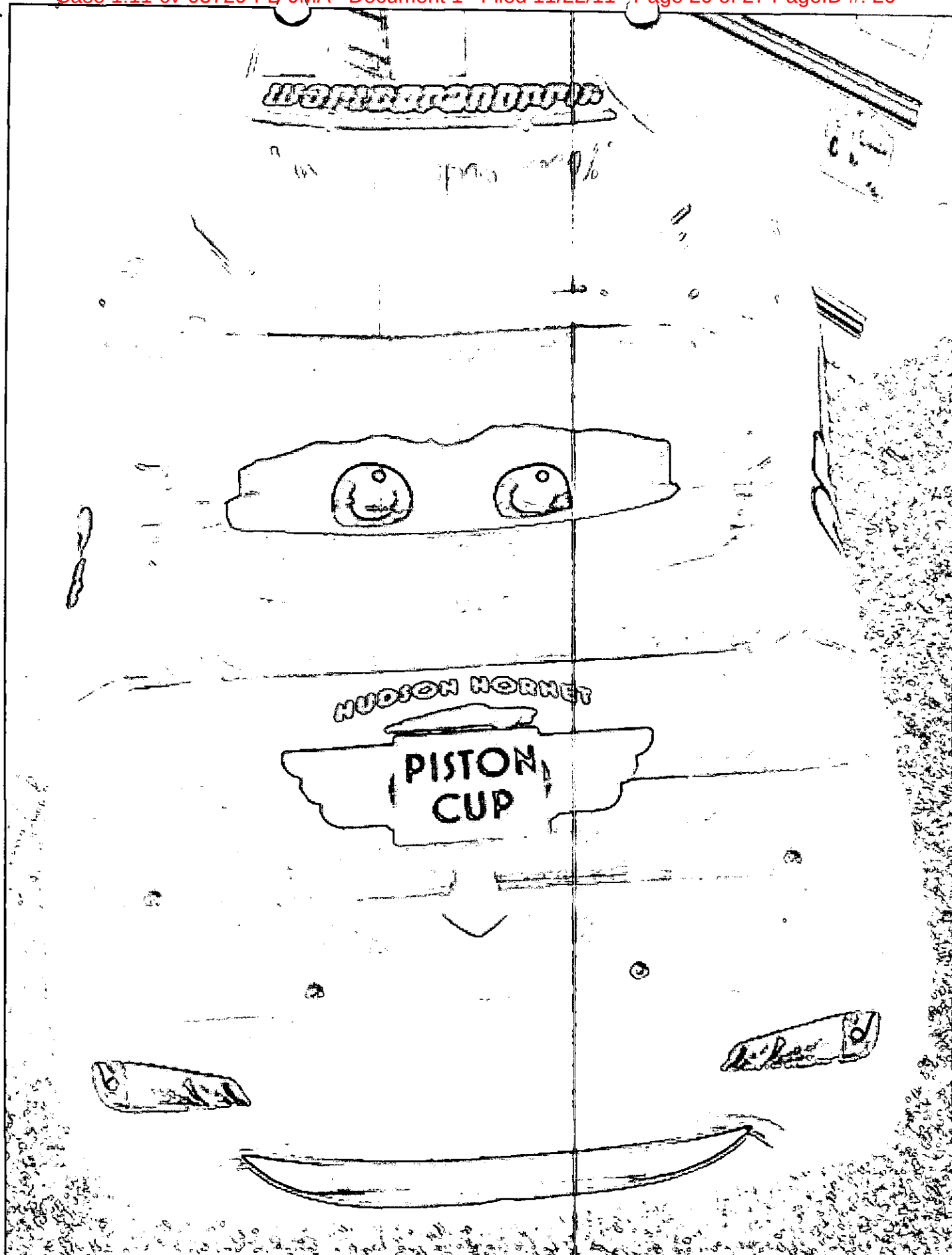
Package includes:

- (1) Inflatable balloon car
- (1) Plastic foot pump
- (1) Plastic steering wheel cradle for Wii remote (connected to inflatable car)

and any other Wii Racing game that requires a Wii Remote to steer

	Quantity	Height	Depth	Length	Weight	UPC Barcode
Packaging	1	10.6 in	5.5 in	14.1 in	4 lbs	656777010652
Master	6	17.7 in	15 in	22.2 in	28.5 lbs	10656777010659

Exhibit 3



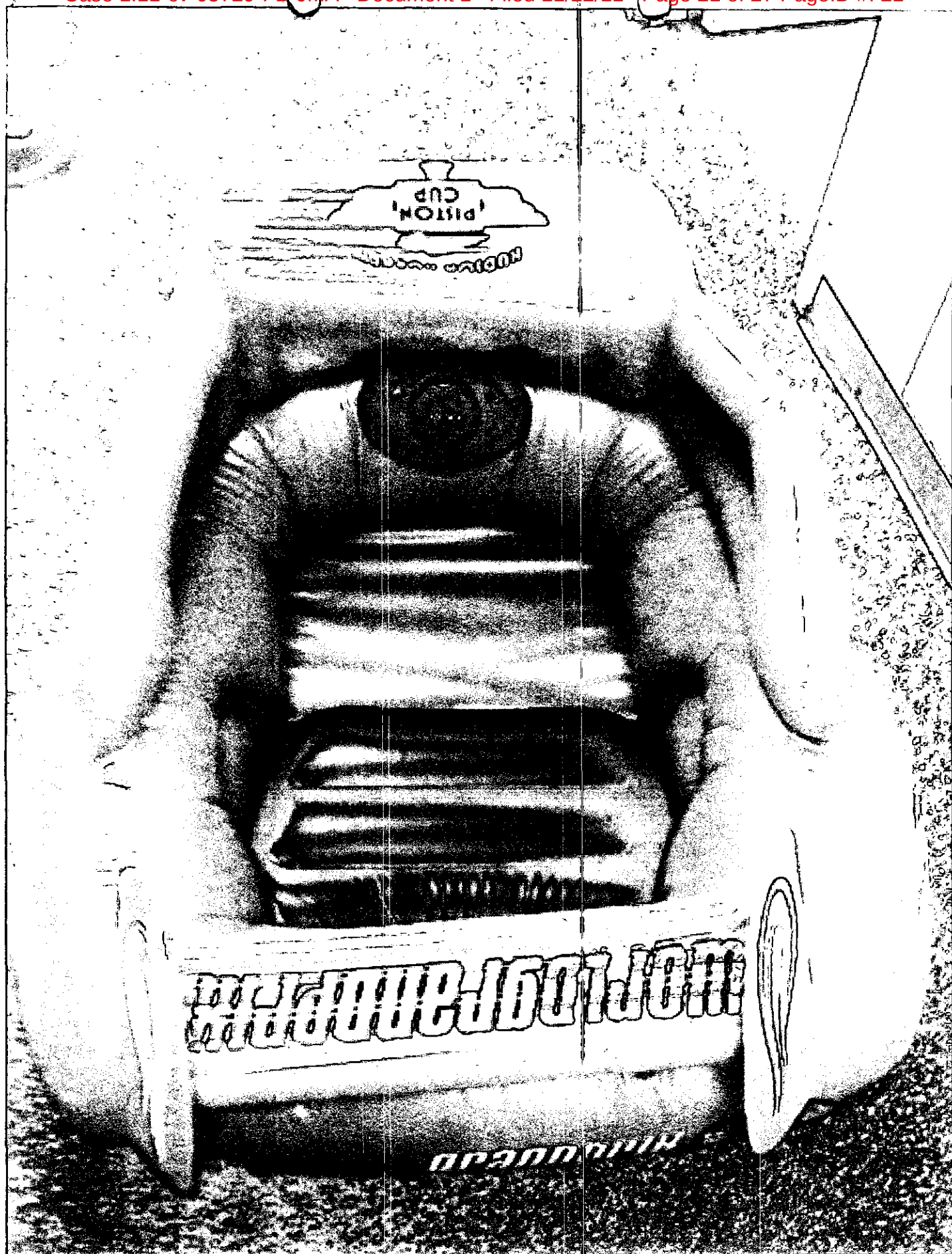
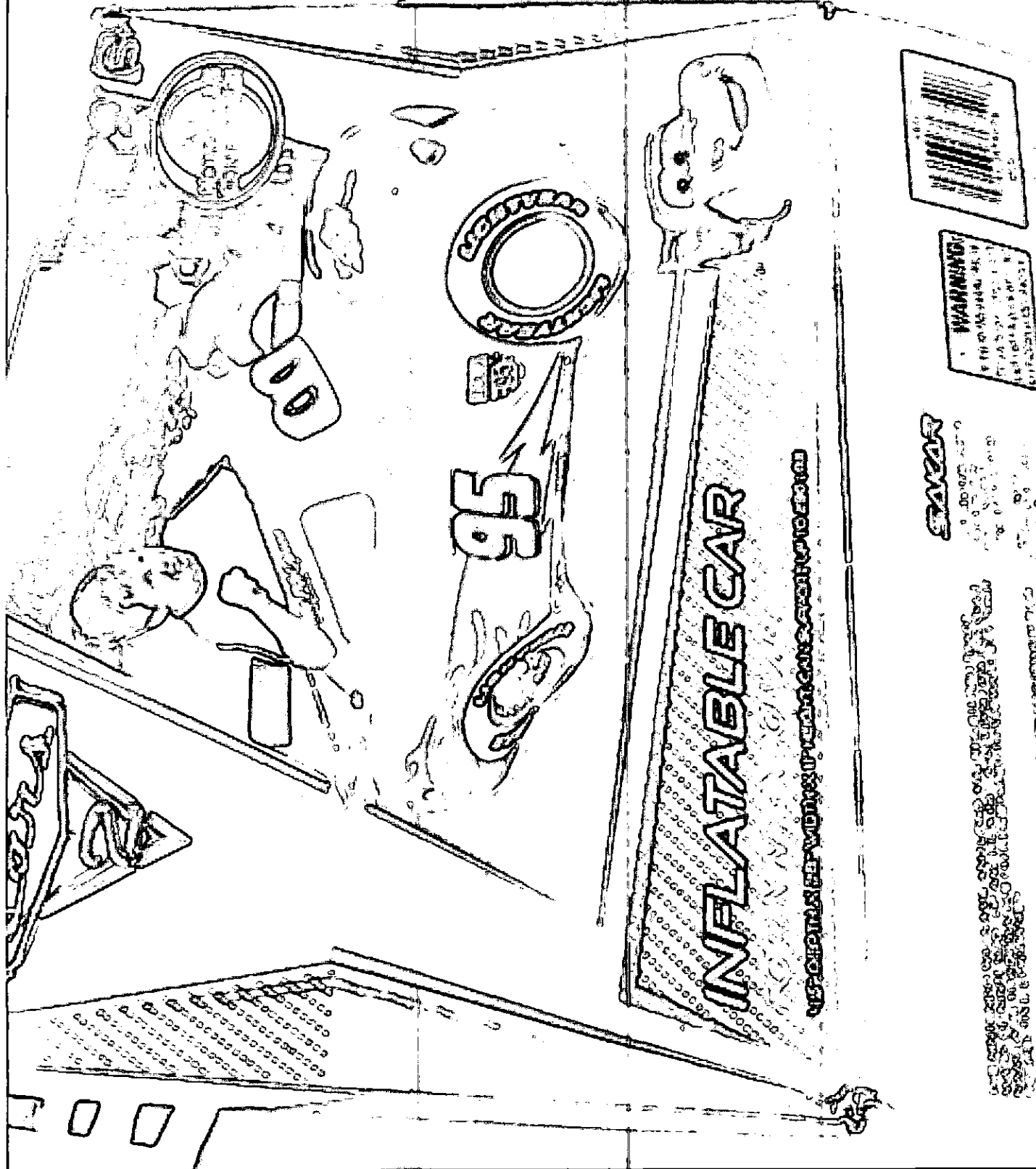
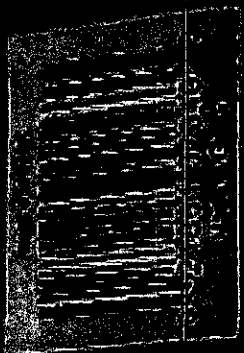


Exhibit 4





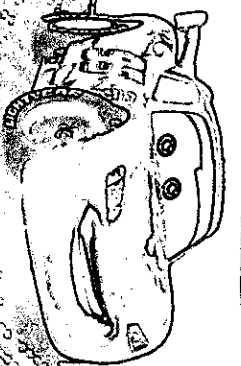


SAKAR

PG (EN) 2

Exhibit 5

INFLATABLE CAR FOR NINTENDO Wii



WHETHER DRIFTING AROUND CORNERS, ROAD RACING OR JUST SPEEDING THROUGH YOUR FAVORITE RACING GAME, YOU CAN NOW MANEUVER YOUR WAY THROUGH OBSTACLES WITH PRECISION WITH THE INFLATABLE CAR. THIS INFLATABLE CAR IS DESIGNED IN THE STYLE OF A SPORTS CAR TO GIVE YOU THE FEELING OF BEING BEHIND THE WHEEL, CONNECTED TO THE INFLATABLE CAR'S DASHBOARD IS A PLASTIC STEERING WHEEL THAT HOLDS YOUR WII REMOTE BY SIMPLY PLACING THE REMOTE IN THE MIDDLE OF THE WHEEL (WITH OR WITHOUT MOTION PLUS CONNECTED). THIS SOFT AND COMFORTABLE SEAT IS EASY TO SETUP, JUST PULL OUT AND POP OPEN THE AIR VALVES AROUND THE CAR AND INFLATE WITH AN AIR PUMP. SO HOP IN YOUR KART AND GO!

• COMFORTABLE SEAT
• WII MOTION PLUS COMPATIBLE

• SAFE FOR BOTH KIDS AND ADULTS
• STEERING WHEEL HOLDS WII REMOTE

• INFLATABLE MATERIAL
• STRONG AND DURABLE

• SUPPORTS UP TO 250 LBS

COMPATIBLE WITH THE FOLLOWING WII GAMES:

• CARS 2
• MARIO KART WII™

• NEED FOR SPEED: PRO STREET
• NEED FOR SPEED: NITRO

• NEED FOR SPEED: UNDERCOVER
• NEED FOR SPEED: OTHER WII RACING GAMES

• EXITE TRUCK AND MANY OTHER WII RACING GAMES

WHEEL GRABBLE FOR